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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/931,471	08/16/2001	Randall Paul Schmitt	60137-042/001-3035U	3000
26096	7590	10/03/2003	EXAMINER	
CARLSON, GASKEY & OLDS, P.C. 400 WEST MAPLE ROAD SUITE 350 BIRMINGHAM, MI 48009			SNIDER, THERESA T	
			ART UNIT	PAPER NUMBER
			1744	
DATE MAILED: 10/03/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/931,471	SCHMITT, RANDALL PAUL	
	Examiner	Art Unit	
	Theresa T. Snider	1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 16 August 2001.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 16 August 2001 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.
 

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                           | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 . | 6) <input type="checkbox"/> Other: _____                                     |

**DETAILED ACTION**

*Specification*

1. The disclosure is objected to because of the following informalities: Page 5, line 5, '44 A' should be replaced with '44. A'.

Appropriate correction is required.

*Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Exemplary of such:

Claim 1, line 3, it is unclear as to what is meant by 'defined about'.

Claims 9-10, line 1, 'drum' should be inserted after 'The' to correspond with the other claims.

Claim 10, line 1, 'actuating' should be replaced with 'actuator'.

Claim 11, line 3, it is unclear as to what is meant by 'defined about';

Line 5, it is unclear as to what is meant by 'in a perpendicular arrangement'; is the latch sleeve perpendicular to the latch?

Line 6, to retain the disk where?

Claims 12-13, line 1, 'drum' should be deleted to correspond with the other claims.'

Claim 12, line 2, it is unclear as to whether the ‘a rotary drum’ is in addition to that of claim 11, line 2 or one in the same.

Claim 15, line 2, it is unclear as to whether the ‘a latch sleeve’ is in addition to that of claim 1, line 4 or one in the same.

Claim 16, line 1 recites a ‘drain cleaning machine’ however fails to provide any cleaning structure;

Line 2, the claim fails to provide the structural relationship of the frame to the other elements;

Line 7, it is unclear as to whether the ‘an axis of rotation’ is in addition tot hat of line 5 or one in the same;

Line 9, it is unclear as to what is meant by ‘defined about’;

Line 12, it is unclear as to what is meant by ‘in a perpendicular arrangement’; is the latch sleeve perpendicular to the latch?

Line 14, to retain the disk where?

#### ***Allowable Subject Matter***

4. Claims 1, 11 and 16 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

5. Claims 2-10, 12-15 and 17-20 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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6. The following is a statement of reasons for the indication of allowable subject matter:  
The prior art discloses drain cleaning machines having a sleeve defining an axis of rotation, a plate with an inner opening and a latch HOWEVER fails to disclose or fairly suggest the latch mounted relative to the inner opening and substantially perpendicular to the axis of rotation and a biasing member to bias the latch away from the axis of rotation.

***Double Patenting***

7. Claim 19 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 18. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Burch, J. et al. and Irwin disclose drain cleaning machines having an annular disk with an inner opening. Babb, Cooney et al. and Schmitt disclose drain cleaning machines with a rotary drum.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa T. Snider whose telephone number is (703) 305-0554. The examiner can normally be reached on Monday-Wednesday-Friday (6:30AM-3:00PM).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on (703) 308-2920. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

TTs



Theresa T. Snider  
Primary Examiner  
Art Unit 1744